

REMARKS

With entry of the present Amendment and Response, claims 1 – 3, 7, 11 and 14 – 28 are pending; claims 2, 3, and 11 are withdrawn. Claims 1, 7, 14, 15, 17 – 23 are amended. New claims 26, 27, and 28 are presented.

No new subject matter is added. Support for the claim amendments and new claims are found in the specification as originally filed, and may be discussed with reference to paragraph numbers in the corresponding published US patent application US 2004/0210301 A1 (published October 21, 2004).

Examples of support in the specification include the following: recitation of "an overhang portion" of the biomaterial forming a "pocket adapted to capture retrograde fluid flow" includes paragraphs [0071] – [0073]. Support for the recitation of a biomaterial comprising elastin or an elastin-like polypeptide includes paragraph [0067]. Support for the recitation of "the body of the one or more leaflets traverses the support frame from the outer edge to the inner edge" includes paragraphs [0007] and [0069]; and support for the recitation of "the inner edge defining an opening to restrict blood flow in the first direction when implanted in the vascular vessel" includes paragraphs [0069] – [0071]. Support for the recitation of placing the flexible biomaterial "in a hydrated condition" includes paragraph [0072]. The above cited examples provide representative support in the specification for the amendments and new claims presented above. No new matter is added.

Request for Continued Examination (RCE)

A Final Rejection dated May 18, 2007 was issued by the Examiner. In response, Applicants have filed a Request for Continued Examination (RCE) on October 31, 2007 and the Response and Amendment dated November 19,

2007. Applicants request that the present Response and Amendment be entered pursuant to the RCE filed October 31, 2007.

Response to Amendment

This Response and Amendment is filed responsive to the Office Action dated January 22, 2008, captioned "Response to Amendment" on page 2. This Office Action asserts that the November 19, 2007 Response and Amendment is "not fully responsive to the prior [May 18, 2007] Office Action because... claim 18 (filed November 19, 2007) does not match the previous copy of claim 18 (filed March 14, 2006)" (Office Action at page 2).

The Office Action further asserts that "Applicant has failed to specifically point out the support in the original disclosure for each of the newly presented claim limitations, such as 'in a hydrated condition' (see claim 18) and newly added dependent claims 26 and 27" (Office Action at page 2). Applicants note that examples of support for these and other claim amendments are found in the specification as filed, which are described herein with reference to the corresponding published US patent application US 2004/0210301 A1 (published October 21, 2004). Support for the recitation of "in a hydrated condition" includes paragraph [0072], reciting that "SIS... is used in the hydrated condition." Support for new claim 29 includes paragraph [0073], reciting "an unattached edge of the overhang 80 can also form a corner flap 81 or pocket as depicted in FIG. 27" and Figure 7. Support for new claim 30 includes paragraph [0067], which recites "[a]dditionally Elastin or Elastin Like Polypeptides (ELPs) and the like offer potential as a material to fabricate the covering or frame to form a device with exceptional biocompatibility."

CLAIM REJECTIONS

Claim Rejections Under 35 U.S.C. § 102(e)

Claims 1, 7 and 18 – 24 stand rejected under 35 USC 102(e) for allegedly being anticipated by US 6,440,164 ("DiMatteo"). In particular, the Office Action asserts with respect to DiMatteo: "[t]he 'overhang portion' or 'skirt portion' is broadly interpreted as the portion that will 'overhang' before attaching/laminating to itself." (Office Action at page 4). Without conceding the validity of this rejection, Applicants have elected to amend the claims to focus on certain preferred embodiments. DiMatteo does not teach or suggest an overhang portion in the implantable valve prosthesis after attaching a biomaterial to a support frame. Applicants respectfully request reconsideration and withdrawal of this rejection in light of the claim amendments.

Claim Rejections Under 35 U.S.C. § 102(b)

Claims 1, 7 and 18 – 25 stand rejected under 35 USC 102(b) for allegedly being anticipated by US 5,489,297 ("Duran"). In particular, the Office Action asserts with respect to Duran: "[t]he 'overhang portion' or 'skirt portion' is broadly interpreted as the portion that will 'overhang' before attaching/laminating to itself." (Office Action at page 6). Without conceding the validity of this rejection, Applicants have elected to amend the claims to focus on certain preferred embodiments. Duran does not teach or suggest an overhang portion in the implantable valve prosthesis after attaching a biomaterial to a support frame. Applicants respectfully request reconsideration and withdrawal of this rejection in light of the claim amendments.

Claim Rejection Under 35 U.S.C. § 103(a)

Claim 25 is rejected under 35 U.S.C. §103(a) as allegedly being obvious over US 6,440,164 ("DiMatteo"). In particular, the Office Action asserts in relevant part that:

It would have been obvious... to have used any of the specific bioabsorbable materials disclosed in claim 25 with the valve of DiMatteo et al.... (Office Action at page 7).

Without conceding the validity of this rejection, Applicants have elected to amend the claims to focus on certain preferred embodiments. DiMatteo does not teach or suggest an overhang portion in the implantable valve prosthesis after attaching a biomaterial to a support frame. Applicants respectfully request reconsideration and withdrawal of this rejection in light of the claim amendments.

Claim Rejection Under 35 U.S.C. § 112, second paragraph

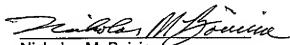
Claims 1 and 18 – 25 are rejected under 35 U.S.C. §112, second paragraph, for allegedly being indefinite. In particular, with respect to claim 1, the office action asserts that the claim limitation "the wall-engaging outer edge" lacks antecedent basis. With respect to claims 18, 21, 22 and 23, the Office Action asserts that the limitations "the vessel," (claim 19) "claim x," (claim 21) and "the fixation" (claims 22 and 23) lack antecedent basis. Applicants respectfully submit that the amended claims obviate the basis for these rejections. Reconsideration and withdrawal of these rejections is requested.

Conclusion

Applicants request prompt examination of the claims of this application on the merits. If the Examiner has any further questions, the Examiner is respectfully invited to telephone the undersigned attorney.

Respectfully submitted,

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Enclosure: Copy of January 22, 2008 Office Action